IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2617 of 2007()

CRIME NO.263/01 OF BADIADKA POLICE STATION
CP NO.21/04 IN LPC NO.33/06 OF JFMC, KASARAGOD.

PETITIONER:

SHAFI,S/O.ABDULLLA,AGED 30 YEARS,
NEERCHAL,NEERCHAL VILLAGE,
KASARAGODE.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS:

STATE OF KERALA
REP. BY SUB INSPECTOR OF POLICE,
BADIADKA POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.M.S.BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2617 OF 2007

Dated this the 17th day of August, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.307 of the IPC. Final report was filed. Cognizance was taken. The petitioner could not appear before the learned Magistrate. Consequently, the case against the petitioner has been split up and the same is pending before the committal court. The same has since been transferred to the list of Long Pending Cases. A warrant of arrest was issued by the learned Magistrate. According to the petitioner, he is absolutely innocent. His absence was not wilful; but was due to reason beyond his control. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in

these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

Nan/ **(R. BASANT, JUDGE)**

//true copy// **P.S. to Judge**

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